

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6483**

**BILL NUMBER:** HB 1108

**NOTE PREPARED:** Dec 13, 2012

**BILL AMENDED:**

**SUBJECT:** Sentencing Alternatives for Youthful Offenders.

**FIRST AUTHOR:** Rep. McNamara

**BILL STATUS:** As Introduced

**FIRST SPONSOR:**

**FUNDS AFFECTED:** X **GENERAL**  
**DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

- A. *Sentencing Alternatives for Certain Offenders Younger than 18* – It establishes sentencing alternatives for courts with criminal jurisdiction for: (1) offenders who are less than 18 years of age who have been waived from a juvenile court to a court with criminal jurisdiction and who are charged as adult offenders; and (2) offenders who are less than 18 years of age who do not come under the jurisdiction of a juvenile court because the offenders are charged with certain criminal offenses. It provides that if such an offender is convicted of committing a felony or pleads guilty to committing a felony, a criminal court may: (1) impose an appropriate criminal sentence on the offender; (2) suspend the criminal sentence imposed; (3) order the offender to be placed into the custody of the Department of Correction to be placed in a juvenile facility of the Division of Youth Services, if the department agrees to the placement; and (4) provide that the successful completion of the placement of the offender in the juvenile facility is a condition of the suspended criminal sentence.
- B. *Review Hearing* – It provides that when an offender becomes 18 years of age, the sentencing court must hold a review hearing concerning the offender before the offender becomes 19 years of age. It allows the sentencing court, after the review hearing, to: (1) discharge the offender if the sentencing court finds that the objectives of the sentence imposed on the offender have been met; (2) order execution of all or part of the offender's suspended criminal sentence in an adult facility of the Department of Correction; or (3) place the offender in home detention, in a community corrections program, on probation, or in any other appropriate alternative sentencing program.

**Effective Date:** July 1, 2013.

**Explanation of State Expenditures:** This bill would likely have a minimal effect on either the juvenile or adult facilities that the Department of Correction (DOC) operates and would depend on the discretion of the adult sentencing court.

There are few juveniles who were transferred to adult court and ultimately committed to DOC adult facilities. DOC reported 37 males and one female who were younger than 18 and committed to an adult facility as of July 1, 2012. Also on the same date, the vacancy rate for general population beds in adult facilities was 3% and 33% in juvenile facilities.

<b>Population and Bed Vacancy for Adult and Juvenile Facilities July 1, 2012</b>				
	Beds	Total Population	Vacant General Population Beds	Percent Vacant
Women	2,626	2,444	107	4%
Men	26,271	25,068	784	3%
Total Adult	28,897	27,512	891	3%
Girls	172	41	116	67%
Boys	752	492	185	25%
Total Juvenile	924	533	301	33%

Within the facilities, this bill would permit DOC to place juveniles who have been found guilty of committing violent crimes in juvenile facilities instead of adult facilities until they reach 18 years of age.

Juvenile facilities are considered more appropriate for most juveniles under 17 years of age. As examples, 12 juveniles on average who were younger than 17 were committed to DOC adult facilities between 2009 and 2011.

**Background** – Offenders under the age of 18 and accused of certain offenses can be treated as either juveniles or adults depending on their age and the severity of the offense.

There are certain situations when the child can be waived to adult court. The following table summarizes these situations.

<b>Conditions for Waiving a Juvenile To Adult Court</b>	<b>Types of Felonies and Ages</b>
Direct Commitment to Adult Court If ...	The child is older than 16 and the crime is attempted murder, kidnaping, rape, criminal deviate conduct, Class A or B robbery, car jacking, criminal gang activity, possessing handgun without license, dealing in sawed-off shotgun.
Mandatory Waiver If the Prosecuting Attorney Requests it and ...	The child is between 10 and 16 and is accused of murder; the child is older than 14 and is accused of a crime that is a heinous and aggravated felony and part of a pattern of delinquent acts; the child is older than 16 and is accused of committing a Class A or B felony (other than drug-related) or a Class C felony involving involuntary manslaughter or reckless homicide and the best interest of safety and welfare of community is at question; or if the child has been already waived to adult court for a prior offense.
Discretionary Waiver If the Prosecuting Attorney Requests it and ...	The child is older than 16 and is accused of committing a drug-related felony or any felony and the best interest of safety and welfare of community is at question.

### **Explanation of State Revenues:**

**Explanation of Local Expenditures:** The adult sentencing court could determine whether the juvenile should be placed in a juvenile facility until they reach 18 years of age, either upon its own motion, a motion of the prosecuting attorney, or a motion by the offender's legal representative. The adult sentencing court would not be mandated to place an offender in a juvenile facility.

Prior to committing an offender to a juvenile facility, the sentencing court would be required to receive either a presentence investigation from the probation department or a diagnostic evaluation by DOC staff. DOC must also determine if space is available in its juvenile facilities. The court would conduct a review hearing before the juvenile becomes 19 and decide whether the juvenile should be discharged if the sentencing court finds that objectives of the sentence have been met, whether the juvenile should be committed to a DOC adult facility, or whether the juvenile could qualify for community supervision.

### **Explanation of Local Revenues:**

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Juvenile courts, adult sentencing court.

**Information Sources:** Department of Correction Offender Information System.

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